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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/475,950

Filing Date: December 31, 1999

Appellant(s): SAAVEDRA-LIM, FRANK S.

Pitney Bowes Inc.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 04/16/2009 appealing from the Office action mailed 12/16/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 9-10 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Basch et al., US Patent No. (6,119,103) referred to hereinafter as Basch.
3. Basch. disclose a method of managing and assessing a set of risks relative to a financial product, said method being accessed through a data processing system, wherein said data processing system comprises a series of nodes operatively connected with each other, said method comprising the steps of: (a) performing an application processing procedure on one or more customers, comprising a check of the creditworthiness of one or more selected customers; and issuing a financial product to one or more of said customers if said selected customer is determined to be creditworthy, thus resulting in an accepted customer, and declining said application if said customer is determined to be not creditworthy; (b) assessing a credit authorization request from a system user, wherein said request is initiated by a use of said financial product; (c) utilizing a predictive modeling routine to perform said assessment;

(d) accepting or declining said credit authorization request as based upon an outcome of said assessment; (e) downloading an assessment result to said data processing system for transfer to a database accessible by one or more remote nodes of said system, (f) applying a fraud indicator to each assessment and wherein said fraud indicator is selected from a list of fraud indicators and wherein each of said fraud indicators on the list is representative of a defined area of risk;

Basch does not explicitly disclose benchmarking risk management effectiveness by determining fraud loss ratios. However, benchmarking risk management effectiveness by determining fraud loss ratios, is certainly well known to those of ordinary skill in the art, and official notice to that effect is hereby taken. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Basch, so as to include benchmarking risk management effectiveness by determining fraud loss ratios as is well known to do, in order to track and understand the effectiveness of the risk management program, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Examiner notes that Official Notice was relied upon to teach the above limitation (g) when it was claimed in claim 11, and official notice still applies to limitation (g) since it is the same as in claim 11. Therefore since the examiner took Official Notice fact to claims 11-14 taken by the examiner on 12/27/2007, and the appellant failed to specifically point out the supposed errors in the examiner's action, and to state why the notice fact is not considered to be common knowledge or well known in the art, In view

of the inadequate traversal, and in light of the requirements of 2144.03(c), ***the examiner notes that the well known in the art statements of the previous Office Action are considered to be admitted prior art.*** Furthermore **the Official Notice Traversal is no longer seasonable, therefore the Official Notice is considered to be admitted prior art.**

Regarding claim 2, in the method of Basch, the financial product is a credit card.

Regarding claims 3-6, the recitations drawn to the nature of the particular entity applying for the credit, whether it be a business entity or an individual entity, have been deemed merely directed to an intended usage of the device, hence, afforded little patentable weight. See MPEP §§ 2114 and 2173.05(g). Additionally, however, note that Basch, do indeed disclose using their method to serve both individual entities and business/corporate entities.

Regarding claim 10, in the method of Basch, a filtering step comprises a credit score filter for eliminating a portion of a population that does not pass through said filter.

Regarding claim 9, in the method of Basch, a set of data relative to said credit authorization request is retained in a memory of said data processing system, Basch. do not explicitly disclose that the data is retained for the purpose of being utilized to determine the effectiveness of an assessment methodology. However, reviewing results to determine the effectiveness of a method over time is certainly well known, hence obvious, to those of ordinary skill in the art of lending, and official notice to that effect is hereby taken. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have further modified the method of Basch, so as to utilize the retained results for the purpose determining the effectiveness of an assessment methodology (if such was not already being done), as is well known to do, in order to learn how to continually improve the assessment methodology to identify a greater and greater percentage of the fraudulent applications, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding claims 12-14, Basch, do not explicitly disclose benchmarking risk management effectiveness by determining fraud loss ratios, including the ratio of fraud loss to any of portfolio maturity, volume of total sales, or total charge-offs. However, benchmarking risk management effectiveness by determining fraud loss ratios, including the ratio of fraud loss to any of portfolio maturity, volume of total sales, or total charge-offs, is certainly well known to those of ordinary skill in the art, and official notice to that effect is hereby taken. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Basch, so as

to include benchmarking risk management effectiveness by determining fraud loss ratios, including the ratio of fraud loss to any of portfolio maturity, volume of total sales, or total charge-offs, as is well known to do, in order to track and understand the effectiveness of the risk management program, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

As per claim 15, Basch teaches wherein the fraud indicator is selected from the group consisting of a change in social security number, a change in personal identification number, a change of address, a change of phone number, account closures questionable purchases, and questionable chargeback's (see at least col.1).

(10) Response to Argument

The examiner summarizes the various points raised by the appellant and addresses them individually.

As per appellant's arguments filed on 04/16/2009, the appellant argues:

Argument A) Basch and/or Official Notice does not disclose or anticipate steps f and g of claim 1 namely (f) applying a fraud indicator to each assessment and wherein said fraud indicator is selected from a list of fraud indicators and wherein each of said fraud indicators on the list is representative of a defined area of risk; (b) determining fraud loss ratios to benchmark risk management effectiveness (**see AB bottom of page 10**).

In response to **Argument A)** the examiner respectfully disagrees. Appellant is reminded that claims must be given their broadest reasonable interpretation. Regarding

limitation (f), Basch teaches an improved financial risk prediction techniques that advantageously employ scoreable transaction as input data to assess the level of financial risk of a particular account and/or account holder, for example if a scoreable transactions across accounts of a particular account holder suggest a heightened level of financial risk, the invention generates a financial risk score that reflects this enhanced level of financial risk (see at least col. 6 line 40 to col. 9 line 67). Furthermore the financial risk prediction system (FRPS) of Basch is based on periodically receiving account data from account issuers, "the account data may include, for example, card holder account information including ... charge-off date, account status", i.e. a list of fraud indicators (see at least col. 7 lines 15-30).

Regarding limitation (g) the examiner respectfully disagrees. As stated in the office action mailed on 12/16/2008, Basch does not explicitly disclose benchmarking risk management effectiveness by determining fraud loss ratios. However, benchmarking risk management effectiveness by determining fraud loss ratios, is certainly well known to those of ordinary skill in the art, and official notice to that effect is hereby taken. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Basch, so as to include benchmarking risk management effectiveness by determining fraud loss ratios as is well known to do, in order to track and understand the effectiveness of the risk management program, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Examiner notes that Official Notice was relied upon to teach the above limitation (g) when it was claimed in claim 11, and official notice still applies to limitation (g) since it is the same as in claim 11. Therefore since the examiner took Official Notice fact to claims 11-14 taken by the examiner on 12/27/2007, and the appellant failed to specifically point out the supposed errors in the examiner's action, and to state why the notice fact is not considered to be common knowledge or well known in the art, In view of the inadequate traversal, and in light of the requirements of 2144.03(c), ***the examiner notes that the well known in the art statements of the previous Office Action are considered to be admitted prior art.*** Furthermore ***the Official Notice Traversal is no longer seasonable, therefore the Official Notice is considered to be admitted prior art.***

Therefore Basch in view of Official Notice still meets the scope of the limitations as currently claimed.

Argument B) it appears that appellant is traversing the use of official notice to claim 9 and 12-14 (see AB Pages 11-12).

In response to **Argument B)**, regarding the Official Notice fact to claim 9, taken by the examiner on the office action dated 07/05/2007, the applicant failed to specifically point out the supposed errors in the examiner's action, and to state why the notice fact is not considered to be common knowledge or well known in the art, therefore In view of the inadequate traversal, and in light of the requirements of 2144.03(c), ***the examiner notes that the well known in the art statements of the previous Office Action are considered to be admitted prior art.*** Furthermore ***the Official Notice Traversal is***

no longer seasonable, therefore the Official Notice is considered to be admitted prior art.

In addition, with regards the Official Notice fact to claims 12-14 in the previous action dated on 12/27/2007, the applicant failed to specifically point out the supposed errors in the examiner's action, and to state why the notice fact is not considered to be common knowledge or well known in the art, therefore In view of the inadequate traversal, and in light of the requirements of 2144.03(c), ***the examiner notes that the well known in the art statements of the previous Office Action are considered to be admitted prior art.*** Furthermore the Official Notice Traversal is no longer seasonable, therefore the Official Notice is considered to be admitted prior art.

Therefore Basch in view of Official Notice still meets the scope of the limitations as currently claimed.

Argument C) Basch does not disclose or anticipate wherein the fraud indicator is selected from the group consisting of a change in social security number, a change in personal identification number, a change of address, a change of phone number, account closures, questionable purchases, and questionable chargeback's (**see AB bottom of page 12**).

In response to **Argument C)** the examiner respectfully disagrees. Appellant is reminded that claims must be given their broadest reasonable interpretation. Basch teaches a financial risk prediction system (FRPS) which is based on periodically receiving account data from account issuers, "the account data may include, for

example, card holder account information including ... charge-off date, account status", i.e. a list of fraud indicators (see at least col. 7 lines 15-30). Therefore Basch still meets the scope of the limitations as currently claimed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/MUSSA SHAAWAT/

Examiner, Art Unit 3627

Conferees:

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627

Vincent Millin